

**LA HABRA ART ASSOCIATION  
LEASE AGREEMENT  
151, ROOM 102 WEST LA HABRA BOULEVARD**

THIS LEASE AGREEMENT (“Lease”) is made and executed this 16th day of August, 2021 (“Effective Date”), by and between the City of La Habra, a California municipal corporation, as the “Lessor,” and LA HABRA ART ASSOCIATION, a California nonprofit corporation, as the “Lessee”.

**WITNESSETH:**

WHEREAS, Lessee desires to lease real property located at 151, Room 102 West La Habra Boulevard in the City of La Habra (“Premises”); and

WHEREAS, Lessor is the owner of the Premises and agrees to lease the Premises to Lessee under certain terms and conditions; and

WHEREAS, Lessor and Lessee desire to enter into this Lease to set forth the terms and conditions of Lessor’s leasing of the Premises to Lessee.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**SECTION 1. LESSEE**

LA HABRA ART ASSOCIATION is individually the Lessee and accepts all rights and obligations of Lessee as set forth herein.

**SECTION 2. TERM**

Lessor agrees to lease the Lessee the real property located at 151 West La Habra Boulevard, Room 102 in the City of La Habra, County of Orange, State of California, (“Premises”) for a period of two (2) years, commencing on the Effective Date set forth above, and concluding on August 16, 2023 (“Initial Term”). Prior to the expiration of the Initial Term, Lessee, at least thirty (30) days, may exercise in writing, the renewal of the lease for an additional one (2) year term (“Renewal Term”).

### **SECTION 3. RENT**

The rent amount for the Premises shall be the sum of One Dollar (\$1.00) per year, due and payable to Lessor commencing August 16, 2021. In addition, as further consideration for rent, Lessee shall provide and pay for an appropriate share of the maintenance, possessory interest tax, separately metered utilities, including but not limited to water, gas, electricity, telephone, and such other costs and expenses that are associated with the use and operation of the Real Property except for the driveways, parking areas and landscape areas. The City will provide weekly custodial services and maintain the heating and air conditioning system. Lessee may be responsible for any weekend callouts for repairs outside of the regular service contract.

### **SECTION 4. WARRANTIES OF TITLE AND QUIET ENJOYMENT**

Lessor covenants that Lessor is the owner of the Premises and has full right to make this Lease, and that Lessee shall have quiet and peaceable possession of the Premises during the Lease term. It is understood and agreed that Lessor shall have the right to periodically use the Premises with the consent of the Lessee. Lessor's use shall be coordinated with Lessee so that each party hereto may enjoy the use of the Premises with the least inconvenience to the other party. Lessee shall provide an updated calendar of events on a quarterly basis and include all activities taking place on premises. These events should include activities that may expand beyond the art gallery such as the expansion lobby, walkway and/or restrooms. This calendar will help ensure we have proper custodial service scheduled.

### **SECTION 5. USE OF PREMISES**

Lessee shall use the Premises for the sole purpose of operating community-based programs and services benefitting the citizens of the City of La Habra and shall engage in those uses consistent with the operation of a resource center, including, without limitation, fundraising activities. Lessee shall comply with all applicable federal, state, and local laws in its use of the Premises. Additionally, Lessee shall submit annually by September 1, a report to Lessor which sets forth the activities and operation of Lessee from the prior year. The report must be consistent with the activities and operations submitted the year before.

The following information shall also be submitted annually:

- Mission statement, organizational values, goals, strategic plans, or other similar documents as applicable
- Board of Directors, including contact information for Board Chair and Executive Director
- Basic financial information such as a "Consolidated Budget" current 990 Form, Profit and Loss Statement, and Balance Sheet
- Any construction or improvements made to the Premises and any information related to funding source(s), date(s), description, etc. Any construction or improvements to the Premises must have the prior written approval of Lessor and follow all City ordinances and building codes.

- Identification of programs and services provided to 1) La Habra community specifically; and 2) greater area, including number of participants in each
- Any other information that Lessee would like to share that might provide a better understanding regarding the contributions of Lessee to the community

Lessee shall not use, or permit the use of the Premises, or any part thereof, to be used for any purpose other than that stated above, unless prior written consent is given by Lessor. Lessee shall not commit any act or omission which would cause the cancellation of any insurance policy covering the Premises. Lessee shall, at its sole cost and expense, comply with all requirements pertaining to the Premises of any insurance organization or company necessary for the maintenance of insurance on and for the Premises. Lessee shall remain solely and exclusively responsible and liable for any and all damage caused to the Premises by Lessee's use, in the prior approved designated areas of the building, thereof except for the driveways, parking areas, and landscape areas during the term of this Lease.

## **SECTION 6. MAINTENANCE**

Lessee shall throughout the term of this Lease, at its sole cost and expense, keep and maintain the Premises in neat order, good condition and repair, and shall restore and rehabilitate any improvements which may be destroyed or damaged by any cause whatsoever. Lessor shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Premises or improvements thereon except for the driveways, parking areas, and landscape areas. Lessee shall comply with and abide by all federal, state, and local laws in its maintenance of the Premises. Lessor will be responsible for maintenance of the roof, interior, and exterior walls, all heating and air conditioning equipment, and the maintenance of kitchen facilities. Lessee is responsible for properly using building amenities and will be responsible if proper use is not being followed resulting in damage. Lessor retains the right to inspect the Premises at any time to determine if all necessary repairs and any long-term deferred maintenance are reasonably occurring. It shall be a cause of termination of this Lease if pre-discussed repairs and routine maintenance have not been reasonably accomplished by Lessee.

## **SECTION 7. UTILITIES**

All separately metered water, gas, electricity, telephone and other utility services used on or furnished to the Premises during the term shall be paid for by Lessee.

## **SECTION 8. LESSEE'S SIGNS**

Any sign, notice, or other advertisement displayed at the Premises must comply with the requirements of the La Habra Municipal Code and be approved by the La Habra Community Development Department, Planning and Building Division.

## **SECTION 9. LIENS**

Lessee shall keep the Premises free and clear from all mechanics and materialmen liens and other liens for work or labor done, services performed, materials, appliances used, or furnished or to be used in or about the Premises for or in connection with any operation of Lessee, for any repairs or improvements which Lessee may make or permit to cause to be made, or any work or construction by, for or permitted by Lessee on or about the Premises.

## **SECTION 10. INDEMNIFICATION**

Notwithstanding the existence of insurance coverage required of **LESSEE** pursuant to this lease agreement, **LESSEE** shall save, keep, indemnify, hold harmless, and defend **LESSOR**, and its appointed and elected officials, officers, employees, and agents, from every claim or demand made and every liability, loss, damage or expense of any nature whatsoever and all costs or expenses incurred in connection therewith, which arise at any time, by reason of damage to the property of, or personal injury to, any person, occurring, arising out of, or related to the negligence, reckless or willful misconduct of **LESSEE**, its officers, agents or employees, including, but not limited to, its subcontractors (hereinafter collectively "**LESSEES**"), occasioned by actual negligent acts or omissions by the **LESSEE**, including any such liability imposed by reason of any infringement or alleged infringement of rights of any person or persons, firm or corporation, in consequence of the use in the performance by **LESSEE** during the term of this lease.

These Indemnification provisions are independent of and shall not in any way be limited by the Insurance Requirements of this Agreement. Lessor approval of the Insurance contracts required by this Agreement does not in any way relieve the Lessee from liability under this section.

## **SECTION 11. ASSIGNMENT AND SUBLETTING**

Without the prior written consent of Lessor, Lessee shall not assign this Lease or sublet the Premises or any part thereof.

## **SECTION 12. ENCUMBRANCE OF LEASEHOLD INTEREST**

Lessee may not encumber or mortgage or by deed or trust or other instrument its leasehold interest and estate in the Premises.

## **SECTION 13. DEFAULT**

If Lessee shall fail or neglect to observe, keep or perform any of the covenants, terms or conditions herein contained on its part to be observed, kept or performed, and if such default shall continue for a period of thirty (30) calendar days after written notice from Lessor setting forth the nature of the Lessee's default, then and in such event, Lessor shall have the right at its option to terminate this Lease and all rights of Lessee hereunder shall thereupon cease.

**SECTION 14. NOTICES**

Wherever in this Lease it shall be required or permitted that notice be given by either party, such notice must be in writing, and must be given personally or forwarded by certified mail addressed as follows:

IF TO LESSEE:

La Habra Art Association  
151, Rm 102 W. La Habra Blvd.  
La Habra, CA 90631  
Tel: 562-691-9739  
Attn: President

IF TO LESSOR:

City of La Habra  
110 E. La Habra Blvd  
La Habra, CA 90631  
Tel: 562-383-4000  
Fax: 562-383-4474  
Attn: City Manager

The effective date of any notice or written communications sent by one party to the other shall be the date received if by personal service, or forty-eight (48) hours after deposit in the US Mail as reflected by official US postmark. Any party may change its address by giving notice in writing to the other parties.

**SECTION 15. FORFEITURE FOR INSOLVENCY**

If Lessee shall at any time during the term hereof become insolvent, or have proceedings in bankruptcy instituted by or against it, or have a receiver appointed over its property, it shall be lawful for Lessor to enter and repossess the Premises. All rights of Lessee shall be thereon terminated.

**SECTION 16. ABANDONMENT BY LESSEE**

If Lessee shall fail to use the Premises for a period of thirty (30) consecutive days, the Premises shall be considered abandoned and the lease term forfeited.

**SECTION 17. WAIVER**

The delay or failure of any party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

## **SECTION 18. INSURANCE**

The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. If the existing policies do not meet the Insurance Requirements set forth herein, Lessee agrees to amend, supplement or endorse the policies to do so.

Without limiting the indemnity provisions of the lease agreement, the Lessee shall procure and maintain in full force and effect during the term of the agreement, the following policies of insurance.

### **MINIMUM SCOPE OF INSURANCE.**

- (a) **Commercial General Liability (CGL)** which affords coverage at least as broad as Insurance Services Office “occurrence” form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (b) **Automobile Liability Insurance** with coverage at least as broad as Insurance Services Office Form CA 0001 covering “Any Auto” (Symbol 1) with limit no less than \$1,000,000 each accident for bodily injury and property damage. Such insurance shall include coverage for owned, hired and non-owned automobiles. (Art Association will submit a letter stating there are no paid employees.)
- (c) **Workers’ Compensation** as required by the State of California with statutory limits, and Employer’s Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury or disease. (Art Association will submit a letter stating there are no paid employees.)

If the Lessee maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the lessee.

Lessor reserves the right to review industry standards and a comparison of similar buildings in the area and impose a reasonable increase of the insurance limits every three (3) years from the Effective Date of this lease.

### **ENDORSEMENTS**

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) Commercial General Liability

- (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Lessee including materials, parts or equipment furnished in connection with such work or operations.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of contractor
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Contract

Additional Insured Endorsements shall be at least as broad as ISO Form(s) CG 20 10 11 85; or CG 20 10 and CG 2037.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

(b) Auto Liability

- (1) **Additional Insured:** The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Lessee.

- (2) **Primary Insurance:** This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(c) Workers' Compensation

- (1) **Waiver of Subrogation:** A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

## **INSURANCE OBLIGATIONS OF LESSEE**

The Insurance obligations under this lease agreement shall be: (1) all the Insurance coverage and/or limits carried by or available to the Lessee; or (2) the minimum Insurance coverage requirements and/or limits shown in this agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the Lessor. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the Lessee under this lease agreement.

## **NOTICE OF CANCELLATION**

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Lessor except ten (10) days shall be allowed for non-payment of premium.

## **WAIVER OF SUBROGATION**

Required insurance coverages shall not prohibit Lessee from waiving the right of subrogation prior to a loss. Lessee shall waive all rights of subrogation against the indemnified parties and Policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the Lessor has received a waiver of subrogation endorsement from the insurer.

## **EVIDENCE OF INSURANCE**

(1) All policies, endorsements, certificates, and/or binders shall be subject to approval by the Lessor as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the Lessor. The Lessor reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(2) The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the Lessor. If such coverage is cancelled or reduced, Lessee shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the Lessor evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

### **DEDUCTIBLE OR SELF-INSURED RETENTION**

Any deductible or self-insured retention must be approved in writing by the Lessor and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The Lessor may require the Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

### **CONTRACTUAL LIABILITY**

The coverage provided shall apply to the obligations assumed by the Lessee under the indemnity provisions of this contract.

### **FAILURE TO MAINTAIN COVERAGE**

Lessee agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the Lessor.

### **ACCEPTABILITY OF INSURERS**

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the City.

### **CLAIMS MADE POLICIES**

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Lessee's lease agreement with the Lessor and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this lease agreement.

### **INSURANCE FOR SUBCONTRACTORS**

Lessee shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this lease agreement, including adding the Lessor as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractor's policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as broad as CG 20 38 04 13.

## **SECTION 19. TERMINATION**

- A. Lessor may terminate this Lease for any reason or for no reason by providing written notice to Lessee of termination at least ninety (90) days prior to the date of termination.
- B. If Lessor believes Lessee is in default of this Lease, it shall provide written notice to Lessee allowing thirty (30) days to cure the default. If Lessee fails to cure the noticed default within 30 days, or fails to diligently pursue the curing of the default for a 30-day period upon receipt of the notice if such default cannot be cured within 30 days, Lessor may terminate this Lease immediately.
- C. If Lessor declares a fiscal emergency and determines that it is to liquidate assets, including the Premises, Lessor may terminate this Lease upon thirty (30) days' written notice to Lessee. Upon receipt of the written notice of termination, Lessee will thereafter have thirty (30) days to provide Lessor with a notice of intent to exercise its first right to purchase the underlying property at fair market value. If Lessee fails to timely provide said notice of intent then the lease shall immediately terminate upon expiration of the thirty (30) days. However, if Lessee timely provides Lessor with said notice of intent, Lessee shall have six (6) months thereafter to exercise its right by funding its purchase of the underlying property, during which time the term of the lease shall continue unless otherwise terminated under this Agreement. In the event that Lessee fails to fund such purchase within six (6) months of providing its notice of intent, then its first right to purchase and the lease shall both immediately terminate.
- D. Under exigent circumstances, for a legitimate governmental purpose, and in order to ensure the continuity of essential city programs and services, Lessor may terminate the lease. City Council is required to approve the termination with a 4/5 vote and a thirty (30) day notice to Lessee is required. At such time that use of the facility to ensure the continuity of essential City programs and services is no longer required, and under which the City Council exercised its right of termination, the terms and conditions of the lease shall be reinstated for the balance of the term of the lease.

## **SECTION 20. ATTORNEY'S FEES**

In the event that litigation is brought by any party in connection with this Lease, the prevailing party shall be entitled to recover from the opposing party(ies) all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

## **SECTION 21. REPRESENTATIVES**

The City Manager or his designee shall be the representative of Lessor for purposes of this lease and may issue all consents, approvals, directives and agreements on behalf of Lessor, called for by this Lease, except as otherwise expressly provided in this Lease.

The President shall be the representative of Lessee for purposes of this Lease and may issue all consents, approvals, directives and agreements on behalf of Lessee, called for by this Lease, except as otherwise expressly provided in this Lease.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF LA HABRA

\_\_\_\_\_  
Jim Sadro  
City Manager

Date: \_\_\_\_\_

LA HABRA ART ASSOCIATION

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

ATTEST:

\_\_\_\_\_  
Laurie Swindell, CMC  
City Clerk of the City of La Habra

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_